

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eliana Behar	Team: Squad #1	CCRB Case #: 202106132	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/01/2021 2:00 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 67	18 Mo. SOL 4/1/2023	EO SOL 4/1/2023	
Date/Time CV Reported Fri, 10/01/2021 2:21 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/11/2021 11:21 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Thomas Redmond	00000	948411	069 PCT
2. PO Daniel Davidoff	08756	961722	069 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Derek Pasolini	03070	954217	069 PCT
2. PO John Orourke	12156	965378	069 PCT
3. PO Vincent Ferraioli	21426	962404	069 PCT
4. PO Nicholas Obrien	05390	965379	069 PCT
5. PO Daniel Mcgee	20092	951987	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Thomas Redmond	Abuse: Lieutenant Thomas Redmond threatened to seize § 87(2)(b)'s property.	§ 87(2)(b)
B.LT Thomas Redmond	Abuse: Lieutenant Thomas Redmond threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
C.LT Thomas Redmond	Force: Lieutenant Thomas Redmond used physical force against § 87(2)(b)	§ 87(2)(b)
D.PO Daniel Davidoff	Abuse: Police Officer Daniel Davidoff threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed the following complaint with IAB on October 1, 2021, and it was received by the CCRB on October 11, 2021.

On October 1, 2021, at approximately 2:00pm, § 87(2)(b) parked his vehicle in front of his girlfriend's house located at § 87(2)(b) in Brooklyn. Lieutenant Thomas Redmond and Police Officer Daniel Davidoff, of the 69th Precinct approached § 87(2)(b) and asked him to move his vehicle. § 87(2)(b) refused to move his vehicle and Lieutenant Redmond threatened to have the vehicle towed (**Allegation A: Abuse of Authority** § 87(2)(g)). At some point, Lieutenant Redmond pointed his Taser at § 87(2)(b) (**Allegation B: Abuse of Authority** § 87(2)(g)) and used force against § 87(2)(b) (**Allegation C: Force** § 87(2)(g)). PO Davidoff told § 87(2)(b) that he could be arrested (**Allegation D: Abuse of Authority** § 87(2)(g)).

§ 87(2)(b) received three summonses for unlawfully parking in front of a driveway, suspended registration, and disorderly conduct (Board Reviews 21-23). No other summonses or arrest resulted from this incident.

Eight police body-worn-camera (BWC) videos (Board Review 01-08), and one cell phone video was obtained for this incident (Board Review 13).

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Thomas Redmond threatened to seize § 87(2)(b)'s property.

It is undisputed that § 87(2)(b) parked his blue Ford Escape in front of his girlfriend's house, that he refused to move his vehicle when Lt. Redmond and PO Davidoff approached and ordered him to do so, and that Lt. Redman threatened to have the vehicle towed and ultimately issued § 87(2)(b) a summons for parking in front of a driveway.

§ 87(2)(b) testified that he double parked in front of his girlfriend's house, turned off his vehicle, and was unloading items from the vehicle when he noticed that Lt. Redmond and PO Davidoff stopped their vehicle across the street. The two officers stared at § 87(2)(b) and § 87(2)(b) asked if he could help them, but neither responded. § 87(2)(b) then brought items from his vehicle to his girlfriend's house. When § 87(2)(b) returned outside, Lt. Redmond and PO Davidoff were standing by his vehicle. The officers asked § 87(2)(b) why he was parked in the street and ordered § 87(2)(b) to move his vehicle. § 87(2)(b) refused to move his vehicle, said he was not blocking traffic, and told the officers to issue him a ticket for double parking if they wanted. Lt. Redmond then ordered § 87(2)(b) to produce his driver's license and registration, but § 87(2)(b) refused, and said the officers did not need his license and registration in order to issue the ticket. Lt. Redmond then threatened to have § 87(2)(b)'s vehicle towed (Board Review 09).

Lt. Redmond's BWC shows him and PO Davidoff performing a car stop of an unrelated gold Infiniti sedan. At 01:47, § 87(2)(b) who is standing across the street, yells at the officers, but what he says is not audible. Lt. Redmond then says to § 87(2)(b) "You're double parked, do you want it towed?" § 87(2)(b) responds that he is in his driveway. Lt. Redmond tells § 87(2)(b) that he is in the street and orders § 87(2)(b) to park the vehicle closer to the sidewalk. § 87(2)(b) continues to argue that he is in his driveway and says that Lt. Redmond can give him a ticket. Lt. Redmond replies, "All right, I'll give you a ticket," and approaches § 87(2)(b)'s vehicle which is parallel parked, in front of a driveway, approximately two to three feet into the street from the driveway cutout. At

02:20, PO Davidoff asks § 87(2)(b) for his license. § 87(2)(b) refuses and says the officers can issue him a ticket by “taking a picture of the fucking DMV thing [points to the windshield] like you supposed to.” § 87(2)(b) then walks away. At 02:36, Lt. Redmond tells § 87(2)(b) that the vehicle is going to be towed. At 02:44, Lt. Redmond approaches the vehicle’s driver’s side, and vehicle’s engine sounds as if it is running (Board Review 01).

PO Davidoff’s BWC, at 00:42, shows PO Davidoff telling § 87(2)(b) that he left the vehicle running and unattended, and thus needs to produce his license. § 87(2)(b) refuses to produce his license and tells PO Davidoff to issue him a summons (Board Review 03).

Lt. Redmond’s testimony was consistent with the BWC. He said he ordered § 87(2)(b) to move the vehicle from the street at least twice, but that § 87(2)(b) refused, and thus prompted Lt. Redmond to inform § 87(2)(b) that the vehicle would be towed. Lt. Redmond said he would have been justified in towing the vehicle because it was illegally parked and was blocking traffic. He even explained to § 87(2)(b) that if a fire truck needed to get through the street, they would not be able to get past § 87(2)(b)’s vehicle (Board Review 10).

According to New York City Traffic Rules and Regulations Chapter 4 § 4-08, No person shall stand or park a vehicle in front of a public or private driveway, except that it shall be permissible for the owner, lessor or lessee of the lot accessed by a private driveway to park a passenger vehicle registered to him/her at the address in front of such driver, provided that such lot does not contain more than two dwelling units, and provided that such parking does not violate any other provisions of the Vehicle and Traffic Law [(f) (2)]. No person shall leave their vehicle unattended without first stopping the engine, locking the ignition, and removing the key from the vehicle [(n) (5)]. Any illegally parked vehicle found parked at any time upon any public highway in the City may, by or under the direction of any person authorized by the Commissioner, be immobilized in such a manner as to prevent its operation, and therefor may be removed to a tow pound [(a) (9) (i)] (Board Review 24).

According to New York State Vehicle and Traffic Law Section 1203 (a), “except where angle parking is authorized, every vehicle stopped, standing, or parked wholly upon a two-way roadway shall be so stopped, standing, or parked with the right-hand wheels of such vehicle parallel to and within twelve inches of the right-hand curb or edge of the roadway” (Board Review 26).

The BWC established that § 87(2)(b)’s vehicle was parked illegally in that its engine was running and had no occupant inside, was parked over a foot away from the curb of a sidewalk and was also parked in front of a driveway where § 87(2)(b) did not reside. As such, § 87(2)(b)’s vehicle could have been towed. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation (B) Abuse of Authority: Lieutenant Thomas Redmond threatened § 87(2)(b) with the use of force.

It is undisputed that Lt. Redmond pointed his taser at § 87(2)(b)

§ 87(2)(b) entered the front passenger’s side of his vehicle to get some items from inside his car. While § 87(2)(b) was inside his car, he noticed PO Davidoff opening his front driver’s side door. At this point, § 87(2)(b) leaned his body across towards the driver’s side of the vehicle and grabbed the front driver’s side door handle to prevent PO Davidoff from opening the car door. He then yelled and told PO Davidoff not to open his car door. Lt. Redmond took out his taser and pointed it at § 87(2)(b)

§ 87(2)(b) through the front driver's side window, which was rolled down. Lt. Redmond did not tase § 87(2)(b) then exited his vehicle to continued unloading items (Board Review 09).

In Lt. Redmond's BWC, at the 02:45 mark, § 87(2)(b) is arguing with PO Davidoff about the summons he is going to get and yells and swears at him. § 87(2)(b) then walks to his vehicle and at 03:00 he enters his car through the front passenger's side door. At 03:02 § 87(2)(b) leans his body over the center console to the front driver's side and starts to close the driver's side window. PO Davidoff, who is standing right outside the driver's side door, immediately opens the front driver's side door. As PO Davidoff opens to door, § 87(2)(b) pulls it shut from the inside of his vehicle. At 03:05 Lt. Redmond, who is standing behind PO Davidoff, takes out his taser and points it at § 87(2)(b) through the partially closed window. At this point § 87(2)(b)'s entire body is leaning over to the driver's side of the vehicle and he is facing Lt. Redmond. At 03:09 § 87(2)(b) yells "tase me; tase me" and then takes out his cellphone, appearing to record, and Lt. Redmond says, "you will get tased, do not do that" and § 87(2)(b) yells "tase me over me pulling my door in." At 03:15 § 87(2)(b) walks out of his car and PO Davidoff follows him. PO Davidoff's BWC (2 of 2), shows the same interaction starting at the 00:58 mark (Board Review 03).

Lt. Redmond's testimony was consistent with what was shown in the BWC footage. When Lt. Redmond heard the car door slam, Lt. Redmond took out his taser and pointed it at § 87(2)(b) and said, "don't do that" referring to him slamming his door shut. Lt. Redmond stated that he pointed his taser at § 87(2)(b) because he determined that he was a threat since § 87(2)(b) had been screaming at him and he saw § 87(2)(b)'s body leaned over to the driver's side and did not know if § 87(2)(b) was going to reach for something else in his vehicle aside from the front door handle of the vehicle. Lt. Redmond did not see § 87(2)(b) grab anything inside the vehicle. § 87(2)(b) then got out of his vehicle and walked onto the sidewalk and continued screaming at Lt. Redmond. Lt. Redmond put away his taser once § 87(2)(b) was out of his vehicle (Board Review 10).

According to Patrol Guide Procedure 221-08, an officer should assess the situation and determine if the use of a conducted electrical weapon (CEW) would be appropriate. The CEW should only be used against a person who is actively resisting, exhibiting active aggression, or to prevent an individual from physically injuring themselves or others. Active resisting "includes physically evasive movement to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. Active aggression is a "threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault which reasonably indicates that an assault or injury to any person is imminent." (Board Review 15).

Although § 87(2)(b) was yelling and swearing at Lt. Redmond and was not complying with the officers' orders to move his vehicle, he was not exhibiting active aggression, actively resisting, or threatening to physically injure himself or others. While § 87(2)(b) did lean his body over the center console of the vehicle, BWC shows that he did so to roll up the driver's side window. Although Lt. Redmond felt threatened by § 87(2)(b) as he was yelling and reached across the vehicle, § 87(2)(b)'s actions of closing the window and pulling his door closed after PO Davidoff opened it was not a way of evading custody as the officers were not attempting to place him into custody and his actions did not constitute active aggression or resistance as defined by the Patrol Guide. Furthermore, Lt. Redmond did not describe and BWC did not capture § 87(2)(b) make any aggressive movements towards the officers. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Force: Lieutenant Thomas Redmond used physical force against § 87(2)(b)

After unloading items into his girlfriend's home, § 87(2)(b) returned to his vehicle and tried to enter the driver's seat so he could re-park his car. Lt. Redmond and PO Davidoff, who were by the driver's side door, refused to allow § 87(2)(b) to enter the vehicle. Lt. Redmond grabbed § 87(2)(b)'s right upper arm to prevent him from entering the car. § 87(2)(b) went back inside his house and called 911. Lt. Redmond did not use any other form of force against § 87(2)(b) nor did § 87(2)(b) sustain any physical injuries.

PO Davidoff's BWC, at 03:40, shows PO Davidoff, Lt. Redmond, and § 87(2)(b) all walking towards the driver's side of § 87(2)(b)'s vehicle. § 87(2)(b) is yelling at the officers "give me the ticket," and points towards his windshield. At 03:58, Lt. Redmond, who is standing directly in front of the driver's side door, tells § 87(2)(b) that he cannot move the car because he is getting a ticket. At 04:10, § 87(2)(b) walks towards the driver's side door. Lt. Redmond extends his left hand, and touches § 87(2)(b)'s right shoulder. § 87(2)(b) steps within inches of PO Davidoff and, yells, "Touch me... I want ya to stop me from getting in my car so I can punch you in your face." (Lt. Redmond's BWC shows this part of the incident at 06:10 – Board Review 03) § 87(2)(b) then approaches his car again. PO Davidoff moves between him and the car and Lt. Redmond reaches his left arm out and grabs hold of § 87(2)(b)'s right arm, while PO Davidoff orders § 87(2)(b) to back up. § 87(2)(b) yells that Lt. Redmond is touching him, walks away to the sidewalk, and calls 911 on his cellphone (Board Review 03).

Lt. Redmond's testimony was consistent with the BWC. He said he grabbed § 87(2)(b)'s arm because § 87(2)(b) was attempting to enter the vehicle and was standing very close the officers (Board Review 10).

According to Patrol Guide Procedure 221-01, force may be used when it is reasonable to ensure the safety of a member of service or a third person, to place a person into custody or prevent escape from custody (Board Review 14).

The BWC, § 87(2)(b)'s and Lt. Redmond's testimonies, all establish that Lt. Redmond grabbed § 87(2)(b)'s arm when § 87(2)(b) tried to enter his vehicle despite being told that he could not move it at that time and after § 87(2)(b) got within inches of PO Davidoff and threatened to punch him. § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Daniel Davidoff threatened to arrest

§ 87(2)(b)

§ 87(2)(b) did not allege that PO Davidoff threatened to arrest him, however this was captured in the BWC footage.

Throughout PO Davidoff's BWC (2 of 2), § 87(2)(b) is seen yelling, arguing, and swearing at Lt. Redmond and PO Davidoff. On multiple occasions, the officers ask § 87(2)(b) for his license he refuses to provide them with this information. At 04:12 § 87(2)(b) threatens PO Davidoff and tells him that he wants him to stop him from getting in his car so that he can punch him in his face. § 87(2)(b) is seen continuously arguing with the officers from the beginning of their encounter until he is issued summonses. At 12:46 § 87(2)(b) is standing on the sidewalk while PO Davidoff is writing him a summons and PO Davidoff asks § 87(2)(b) if his vehicle is registered to him, and § 87(2)(b)

tells him to write him the ticket and not to worry about that. He tells PO Davidoff that he does not need to provide his name or anything to be issued a parking ticket. At 12:54 PO Davidoff tells § 87(2)(b) that he is getting a ticket for disorderly conduct and that if he refuses to provide his name they will place him under arrest. At 13:01 § 87(2)(b) tells PO Davidoff that he wants him to try and arrest him. PO Davidoff does not arrest § 87(2)(b) and he is issued summonses (Board Review 03).

Lt. Redmond testified that another officer on scene ran § 87(2)(b)'s registration to obtain his name and determined that § 87(2)(b) had a suspended license. PO Davidoff wrote § 87(2)(b) a parking summons for double parking his vehicle and issued him two more summonses for disorderly conduct and for having a suspended license. Lt. Redmond stated that he could have arrested § 87(2)(b) during this incident for disorderly conduct and for his suspended license, however he decided to issue him summonses rather than arrest him (Board Review 10).

According to Vehicle and Traffic Law (VTL) Article 20 section 511 a person is guilty of aggravated unlicensed operation of a motor vehicle in the third degree when such person operates a motor vehicle upon a public highway with a suspended license. This is considered a misdemeanor offense and one can face imprisonment and/or fines (Board Review 25).

Since § 87(2)(b) was operating a motor vehicle with a suspended license, as per VTL Article 20, Section 211 he was committing a misdemeanor offense and therefore could have been arrested. PO Davidoff issued him a summons for having a suspended license rather than arresting him for this offense. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 18).
- Police Officer Daniel Davidoff has been a member-of-service for five years and has been a subject in six CCRB complaints and 21 allegations of which four were substantiated:
 - 2019045859 involved substantiated allegations of entry of premises, failure to provide business card, search of person, and discourtesy (word). The Board recommended Formalized Training and the NYPD imposed Formalized Training.
 - § 87(2)(g)
- Lieutenant Thomas Redmond has been a member of service for 12 years and has been a subject in 9 CCRB complaints and 17 allegations of which four were substantiated:
 - 202006201 involved a substantiated allegation of failure to supervise against Lt. Redmond. The Board recommended Command Discipline B and the NYPD has not yet imposed discipline.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 2, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 19).

- § 87(2)(b)

Squad: 1

Investigator: Eliana Behar Inv. Behar
11/25/22

Signature

Print Title & Name

Date

Squad Leader: Mgr. Joy Almeyda 9.19.22
Signature Print Title & Name Date

Reviewer:
Signature Print Title & Name Date